

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 13-1736-cr

Caption [use short title]

Motion for: an order relieving counsel

Set forth below precise, complete statement of relief sought:

US v. OKLU

An order relieving this Office as counsel on appeal and assigning new counsel

from the Court's CJA panel.

MOVING PARTY: ALI OKLU

☐ Plaintiff☒ Defendant☐ Appellant/Petitioner☐ Appellee/Respondent

OPPOSING PARTY: UNITED STATES OF AMERICA

MOVING ATTORNEY: DARRELL B. FIELDS

[name of attorney, with firm, address, phone number and e-mail]

Federal Defenders of New York, Inc., Appeals Bureau

52 Duane Street, 10th Floor

New York, New York 10007

(212) 417-8742 darrell_fields@fd.org

OPPOSING ATTORNEY: CARRIE H. COHEN, ESQ.

Assistant United States Attorneys, Southern District of New York

One St. Andrew's Plaza

New York, New York 10007

(212) 637- 2264

Court/Judge/Agency appealed from: PAULEY, J., U.S.D.J./S.D.N.Y.

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):

☒ Yes☐ No (explain):

Opposing counsel's position on motion:

☒ Unopposed☐ Opposed☐ Don't Know

Does opposing counsel intend to file a response:

☐ Yes☒ No☐ Don't KnowFOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND
INJUNCTIONS PENDING APPEAL:

Has request for relief been made below?

☐ Yes☐ No

Has this relief been previously sought in this Court?

☐ Yes☐ No

Requested return date and explanation of emergency:

Is oral argument on motion requested?

☐ Yes☒ No

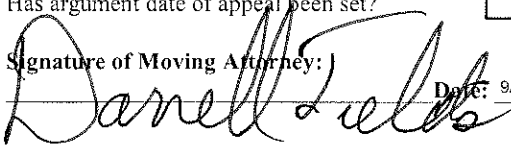
(requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

☐ Yes☒ No

If yes, enter date:

Signature of Moving Attorney:



Date: 9/12/2013

Service by: ☒ CM/ECF☐ Other [Attach proof of service]

ORDER

IT IS HEREBY ORDERED THAT the motion is GRANTED DENIED.

FOR THE COURT:

CATHERINE O'HAGAN WOLFE, Clerk of Court

Date: _____

By: _____

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X
UNITED STATES OF AMERICA, : DECLARATION

- v - : Docket No. 13-1736-cr

ALI OKLU, :

Appellant. :
-----X

DARRELL B. FIELDS declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

I am an attorney with the Federal Defenders of New York, Appeals Bureau, and I make this declaration in support of a motion for an order (1) relieving this Office as counsel to appellant Ali Oklu because this Office has a potential conflict of interest in continuing to represent him on appeal; (2) appointing counsel not affiliated with this Office to represent Mr. Oklu, under the Criminal Justice Act; and (3) withdrawing the brief that this Office previously filed for appellant (on August 22, 2013), so that new counsel can determine the appropriate litigation strategy on appeal.

Mr. Ali Oklu filed a notice of appeal from a judgment of the United States District Court for the Southern District of New York (Hon. William H. Pauley, III) convicting him, after a guilty plea, of one count of conspiracy to transport firearms interstate (18 U.S.C. § 371; 18 U.S.C. § 922(a)(3)); and one count of conspiracy to transport and receive interstate stolen property with a value of \$5,000 or more (18 U.S.C. § 371; 18 U.S.C. § 2315). He was sentenced, on April 18, 2013, to 46 months' imprisonment and three

years' supervised release. The court also imposed forfeiture of \$35,000, a fine of \$7,500, and a \$100 special assessment.

Mr. Ali Oklu was represented in the district court by an attorney from the Federal Defenders of New York. On appeal, he is represented by the same Office. This Office filed a brief on Mr. Oklu's behalf on August 22, 2013. The Government's brief is not due until November 21, 2013.

Mr. Oklu informs me that he wants to raise a claim, in this appeal, that he did not receive the effective assistance of counsel in the district court when he entered his guilty plea. Because he was represented by a lawyer of this Office, his insistence on presenting this claim creates a potential conflict of interest between this Office and Mr. Oklu. For ethical reasons, an evaluation of his claim, and of whether it rises to a viable claim of ineffective assistance of counsel, should be made by a lawyer not associated with the Federal Defenders of New York.

Accordingly, because a potential conflict of interest has arisen between this Office and Mr. Oklu, I respectfully request (1) that the Federal Defenders of New York be relieved as counsel on appeal and that new counsel, not affiliated with this Office, be assigned pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A(c); and (2) that the brief previously filed on appellant's behalf (on August 22, 2013) be withdrawn so that new counsel can determine the appropriate litigation strategy for Mr. Oklu's

appeal.

WHEREFORE, it is respectfully requested that an order be entered relieving the Federal Defenders of New York as counsel to Mr. Oklu on this appeal and appointing other counsel not affiliated with this Office to represent him.

I declare under penalty of perjury that the foregoing is true and correct.

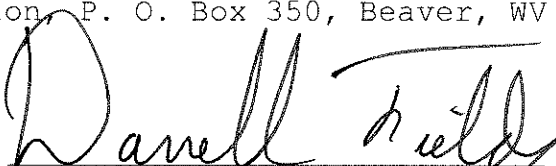
Executed on: New York, New York
September 12, 2013


DARRELL B. FIELDS

CERTIFICATE OF SERVICE

I certify that a copy of this Motion has been served by CM/ECF on the United States Attorney/S.D.N.Y.; Attention: **CARRIE H. COHEN, ESQ.**, Assistant United States Attorney, Southern District of New York, One St. Andrew's Plaza, New York, New York 10007; and on defendant-appellant **ALI OKLU**, Reg. No. 65879-054, FCI Beckley, Federal Correctional Institution, P. O. Box 350, Beaver, WV 25813.

Dated: New York, New York
September 12, 2013


DARRELL B. FIELDS